

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 2096 – SB 2122

February 12, 2018

SUMMARY OF BILL: Requires Fiscal Review Committee (FRC) staff to disclose on fiscal notes the names of all governmental or nongovernmental entities that supplied information and that FRC staff consulted when creating the fiscal note.

Requires all agencies providing supporting information to FRC staff to disclose on their respective fiscal note support forms all sources used in making the fiscal determination.

Creates a mechanism by which a sponsor of a bill, resolution, or amendment, who disagrees with any aspect of the applicable fiscal note or fiscal memorandum for their respective legislation, may file a dispute with the FRC.

Requires FRC staff to immediately notify agencies, after an official dispute has been filed with the FRC, regarding disputed support information provided by such agencies. Requires such agencies to disclose all pertinent information within a reasonable period of time, as determined by the Executive Director of the FRC, after receiving such dispute notification. Establishes procedures for stakeholders testifying before the FRC concerning any filed dispute.

Entitles FRC to receive information that is required by law to be kept confidential, provided the FRC maintains the same level of confidentiality as required by law, and further provided that members and staff of the FRC are subject to the same statutory penalties for unauthorized disclosure of such confidential information.

Establishes as a duty for the Office of Legislative Budget Analysis (OLBA) that staff assists members and committees of the General Assembly with the creation of general appropriations bills and amendments to the general appropriations bills. Authorizes OLBA to hire ten staff members, five assigned to the House of Representatives and five assigned to the Senate, for the express purpose of creating legislative general appropriations bills and assisting members of the General Assembly with analysis of the Governor's general appropriations bill. Such additional staff shall be employed on the recommendation of the Director of OLBA and the respective Speakers.

ESTIMATED FISCAL IMPACT:

**Increase State Expenditures – Exceeds \$150,000/One-Time
Exceeds \$994,300/Recurring**

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Other Fiscal Impact – The provisions of the proposed legislation could result in changes to fiscal analysis as determined by the members of the Fiscal Review Committee instead of the FRC staff and could extend the average length of session. Both of these could result in significant additional expenditures. Due to multiple unknown factors, the exact increase in expenditures cannot be reasonably quantified.

Assumptions related to proposed appeal process and confidential information:

- Currently, FRC staff request information from government entities and complete independent research during the drafting of fiscal notes and fiscal memorandum. This information is considered public information after the issuance of any fiscal note or fiscal memorandum and is provided upon request. Including a list of sources with each issued fiscal note and fiscal memorandum will not result in significant additional expenditures.
- Agencies currently disclose sources of information on fiscal note support forms unless prohibited due to confidentiality requirements. Any additional expenditures to provide information that is currently not being provided is considered not significant.
- Any fiscal impact resulting from the creation of the mechanism, by which a sponsor of a bill or amendment can dispute the respective fiscal note or fiscal memorandum, can be accommodated within existing resources of the FRC.
- Any fiscal impacts resulting from the proposed notification requirements for appeals, applicable agencies disclosing pertinent information to FRC staff, and establishment of the proposed procedures for stakeholders testifying before the FRC concerning any filed dispute, can all be accomplished within the existing resources of the FRC and applicable agencies.
- Pursuant to the provisions of this legislation, the FRC can require, by joint agreement of both chairs, certain specified agency employees to testify before the FRC about fiscal conclusions concerning appealed legislation. As a result, additional FRC meetings will be required in order to process appeals filed with the FRC.
- Due to the limited availability of FRC members, the necessary timing of hearing such appeals so as not to significantly alter the pace of session, and the limited meeting space that will accommodate the FRC, it is assumed the additional FRC meetings for the exclusive purpose of hearing appeals on fiscal estimates will have to occur on Fridays during legislative sessions.
- Due to the pace of session, the issuance of fiscal notes and fiscal memorandums, meeting the 72-hour notice requirements and the timeliness of when appeal hearings will be required, it is assumed FRC hearings will begin the first Friday in February and continue each Friday through mid-April resulting in at least 10 appeal hearings.
- In any given legislative session, there are at least 2,000 fiscal notes and fiscal memorandums issued. If 10 percent, or 200, appeals are filed annually, the FRC will hear approximately 20 appeals each meeting (200 appeals / 10 hearings)].
- There are 17 members of the FRC who will be entitled to receive per diem for attending the additional FRC meetings. In addition, it is estimated that there will be at least 10 other members (sponsors of legislation appealing fiscal notes) that will also be entitled

to receive per diem by virtue of attending the FRC meetings at which their appeals are being heard. Therefore, it is estimated that an average of 27 members (17 + 10) will receive one additional day of per diem for each Friday meeting under the provisions of this legislation.

- The daily member per diem is currently \$229 per legislative day.
- The recurring increase in state expenditures from the General Fund is estimated to exceed \$61,830 (10 minimum meetings per year x 27 average members x \$229 per member per day).
- Any impact resulting from FRC receiving confidential information, maintaining confidentiality for such information received, and being subject to the same statutory penalties for unauthorized disclosure of such confidential information, is considered not significant.
- Constitutionally, the budget has to include an appropriation for the first year's funding of any legislation passed by the General Assembly. The General Assembly meets this constitutional requirement by using the analysis of the fiscal note or fiscal memorandum.
- It is unknown as to the exact outcome of any appeal before the FRC and the impact that will result on the fiscal analysis of any piece of legislation. Should the FRC significantly alter the fiscal analysis attached to legislation, there will be significant changes to the amounts necessary to be included in the budget.
- Further, should the FRC alter the fiscal analysis of legislation after the budget has passed and funding is not properly included in the budget, the proposed legislation will become null and void.
- Therefore, should the proposed legislation extend the average length of session due to all fiscal note and fiscal memorandum appeals being heard prior to the budget being passed, there will be an increase in state expenditures of an unknown amount. For each day that session is extended there is an increase in per diem expenditures of \$30,228 (132 members x \$229).

Assumptions related to the Office of Legislative Budget Analysis:

- Pursuant to the provisions of this legislation, the Director of OLBA will be authorized to employ ten staff members for the express purpose of creating legislative general appropriation bills and for assisting members of the General Assembly with analysis of the Governor's general appropriations bill.
- Any additional funding required by OLBA to effectuate the purpose of this legislation will require additional appropriations from the General Fund.
- Based on information received by OLBA and the Office of Legislative Administration (OLA), OLBA will require two legislative attorney positions for creating legislative general appropriation bills, four Legislative Budget Analysts 3 positions, and four Legislative Budget Analysts 2 positions.
- The minimum pay range for a Legislative Attorney position is \$70,100 (\$54,100 salary; \$16,000 benefits).
- The minimum pay range for a Legislative Budget Analyst 3 position is \$72,200 (\$55,800 salary; \$16,400 benefits).
- The minimum pay range for a Legislative Budget Analyst 2 position is \$64,800 (\$49,800 salary; \$15,000 benefits).

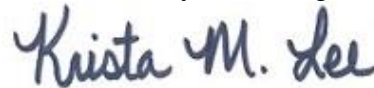
- The recurring increase in state expenditures for the additional positions is estimated to be \$688,200 [(\$70,100 x 2) + (\$72,200 x 4) + (\$64,800 x 4)].
- Office space consisting of two hard-walled offices and eight cubicles will be required for the 10 additional staff members. This one-time cost along with required computers, software, telecommunications, supplies, additional storage space for files pertaining to the additional responsibilities added by this legislation, and other miscellaneous items is reasonably estimated to exceed \$150,000.
- Both of the House and Senate Finance, Ways and Means Committees will have to hold additional meetings to provide guidance to the OLBA to construct and draft additional general appropriation acts. It is assumed that these meetings will occur in conjunction with the Governor's Budget Hearings and occur in October through December each year.
- The 33 members on both committees (11 Senators + 22 Representatives) will receive travel and per diem for two, two-day meetings each month for three months.
- The recurring increase in state expenditures as a result of the Finance, Ways, and Means Committees conducting meetings, for the purpose of providing guidance to the OLBA to construct and draft additional general appropriation acts, is estimated to be \$90,684 (33 members x \$229 per member per day x 4 additional days x 3 months).
- The Office of Legal Services will also need two additional attorneys to assist the OLBA with drafts of the general appropriations acts and amendments.
- The recurring increase in state expenditures for these two additional positions is estimated to be \$153,600 [(\$59,800 salary + \$17,000 benefits) x 2 positions].

Assumptions related to total impact of legislation:

- The total one-time increase in state expenditures is estimated to exceed \$150,000.
- The total recurring increase in state expenditures is estimated to exceed \$994,314 (\$61,830 + \$688,200 + \$90,684 + \$153,600)

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

/rnc